

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
DANVILLE DIVISION**

DIANE M. RITZIE,

Plaintiff,

v.

J & J INVESTMENTS AND SALES, INC.;  
CHAMPION HOME BUILDERS CO.;  
JULIA JAMES and JOHN JAMES,,

Defendants.

)  
) Case No. 4:04CV00039  
)

) **ORDER**  
)

) By: **Jackson L. Kiser**  
) Senior United States District Judge  
)

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On November 1, 2005 Defendants J&J Investments and Sales, Inc., Julia James, and John James (“Defendants”) filed a Motion to Compel [Dkt. No. 86] against Plaintiff Diane M. Ritzie (“Plaintiff”) in the above-styled matter. This Motion concerned Plaintiff’s alleged failure to answer various Interrogatories submitted by Defendants. On November 7, 2005, Defendants filed a Motion for Sanctions [Dkt. No. 87] due to Plaintiff’s continued failure to respond to the Interrogatories. Plaintiff responded to both of these motions on November 28, 2005 [Dkt. No. 115]. A Pre-Trial Order (“PTO”) for this case was entered by this Court on February 15, 2005.

Paragraph five of the PTO states that it is the moving party’s obligation to either bring the motion for a hearing or, if both parties agree, to notify the Court that the motion is submitted on briefs. Paragraph five further states in bold and uppercase font that “any motion which is not brought on for hearing or submitted on briefs within 90 days from the date it is filed will be dismissed and the Court will not entertain a renewed motion of the same issue(s) except for good cause.”

Defendants have failed to comply with the plain language of the PTO by not setting a date for hearing their Motions or, alternatively, notifying the Court that the parties have agreed to submit the Motions on briefs within 90 days of filing their Motions. Because more than 90 days have passed since Defendants filed their Motions, I must **DISMISS** Defendants' Motions.

The Clerk is directed to send a copy of this Order to all counsel of record.

Entered this 31<sup>st</sup> day of March, 2006.

s/Jackson L. Kiser  
Senior United States District Judge